IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1975 of 2000
to
FIRST APPEALNo 1982 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE J.R.VORA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

GANDABHAI SHANKARBHAI

Appearance:
MR UMESH TRIVEDI, ld.AGP for appellants
MR AJ PATEL for respondents.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE J.R.VORA

Date of decision: 18/01/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

All these 8 First Appeals under Sec.54 of the Land Acquisition Act read with Sec.96 of the Code of Civil Procedure are directed against the judgment and order dated 8th Dec.1999 passed by the 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad

(Rural), Mirzapur, at Ahmedabad in Land Acquisition Cases Nos. 719 to 276 of 1996 taking the main Land Acquisition Case No.724 of 1996.

2. The lands of village Rantai, Tal. Viramgam, Dist. Ahmedabad, the particulars of which have been given in para 2 of the impugned judgment were sought to be acquired for Narmada Project, Kharaghoda Branch Canal. For this purpose, the notification under Sec.4 of the Land Acquisition Act was published in the Govt. Gazette on 28th Jan.1993 and the notification under Sec.6 was issued on 20th April 1994. The Special Land Acquisition Officer determined the market price of these lands at the rate of Rs.1.50/= per sq.mtr. as against the claim of the respondents at the rate of Rs.20/= per sq.mtr. The Land Acquisition Officer passed the award on 19th Oct.1994. The matter was taken in reference and the Reference Court granted the compensation at the rate of Rs.18.50/= per sq.mtr. in addition to and over and above the rate at which the compensation was directed to be paid by the Land Acquisition Officer, i.e. Rs.1.50/= per sq.mtr. The Reference Court rendered the judgment on 8th Dec.1999 and this common judgment and order dated 8th Dec.1999 in Land Acquisition Reference Cases Nos.719 to 726 of 1996, the Land Acquisition Reference Case No.726 of 1996 being the main case has been made the subject matter of challenge in these eight appeals.

3. Mr.Umesh Trivedi, ld.AGP has argued that the Reference Court has placed reliance on the previous award at Exhs.22 and 23, i.e. the awards with regard to the lands of village Suvala, Tal. Viramgam, Dist. Ahmedabad in Land Reference Cases Nos.631 to 632 of 1987 in which case the date of notification issued under Sec. 4 was 1.6.1983 and the compensation was directed to be paid at the rate of Rs.10/= per sq.mtr. and the award at Exh.23 in LAR No. 133 to 141 of 1988 in which the date of notification issued under Sec.4 was 10th Feb.1983 and the Reference Court awarded compensation at the rate of Rs.10/= per sq.mtr. are stale awards and therefore, the same could not be relied upon. He has also submitted that the 10% increase per annum is given only by way of taking the judicial notice of the increase in the price of 10% every year but the claimants had not led any evidence to show that there was an upward trend of increase in price. According to Mr.Umesh Trivedi, even if it is found that there was a difference of about nine years in the dates of notification in cases of Exhs.22 and 23, the previous awards, i.e. dt.1.6.1983 and 10th Feb.1983 with regard to the notification under Sec.4 and the same being 19th Dec.1992 in the present case, the

rate of compensation could not be increased by 10% every year for a period of nine years, i.e. from 1983 to 1992.

4. We have gone through the impugned judgment dated 8th Dec.1999, previous awards at Exhs.22 and 23, the other documents, i.e. the deposition of Shri Nathabhai Shivdas Patel at Exh.28, Village Forms no.7/12 at Exhs.33 to 42, and the deposition of Kanaiyalal Atmaram Patel at Exh.48. We find that the argument as has been raised by Mr.Umesh Trivedi, ld.AGP that the previous awards are stale awards is not at all tenable because of the proximity of the lands of the villages concerned in the present case and as were concerned in the previous awards at Exhs.22 and 23 which are in close proximity and the proximity of these villages is not in dispute. The 10% increase every year from the date of the issue of the notification under Sec.4 is, by this time, a settled norm to be applied in all such cases for determining the rate of compensation and on that basis, we find that the grant of compensation at the rate of Rs.20/= per sq.mtr. instead of Rs.10/= per sq.mtr. is quite just and proper as the compensation was directed to be paid at Rs.10/= per sq.mtr. in cases where the date of Sec.4 notification was in 1983. In the present case, the date of notification under Sec.4 being 1992, i.e. after a period of nine years, and once the proximity of the concerned villages is not in dispute, there is no basis to interfere with the rate of Rs.20/= per sq.mtr. as has been determined by the Reference Court. Therefore, we find that the order as has been passed by the Reference Court granting compensation at the rate of Rs.20/= per sq.mtr. in the case at hand is just and proper and does not warrant any interference by this Court. It is expected that the due amount shall be paid to the claimants within a period of three months from the date the certified copy of this order is produced before the concerned authorities.

6. We do not find any merit in all these eight First Appeals. All these eight First Appeals are hereby dismissed. No order as to costs.

(M.R. Calla, J.)

(J.R. Vora, J.)

Sreeram.